

Application No. 09/385,802  
Attorney Docket No. 4031/1, 15719US00

**REMARKS**

The present application includes claims 16-20, 22, 103, and 105-127. By this Amendment, claim 16 has been amended to correct a typographical error.

In paragraphs 4-5 of the Office Action, the Examiner rejected claims 16-20, 22, 103, and 105-151 pursuant to 35 U.S.C. Sec. 112, first paragraph. The Examiner contends that these claims are based on a disclosure which is not enabling and that the claims contain subject matter that is not described in the specification in such a way as to enable one skilled in the art to make or use the invention, for reasons more fully set forth in the Office Action.

More specifically, the Examiner contends (in paragraph 4 of the Office Action) that the instant messaging server, an instant messaging database, an authorization database, and a profile database are all critical or essential to the practice of the invention but not included in the claim, and the Examiner contends (in paragraph 5 of the Office Action) that the rejected claims are non-enabled because undue experimentation is required. Additionally, all of the pending claims have been rejected, mostly under 35 U.S.C. § 103(a) as obvious based on the art cited in the rejection. Applicant responded to the foregoing contentions in the Amendment filed July 9, 2007.

The enclosed Declarations of Professors Rubin and Hollaar supplement the filing of July 9, 2007:

- 1) Second Declaration of Professor Aviel Rubin Under 37 CFR § 1.132

Application No. 09/385,802

Attorney Docket No. 4031/1, 15719US00

2) Second Declaration of Professor Lee Hollaar Under 37 CFR § 1.132

The Applicant notes that the Examiner makes several factual assertions with regard to the criticality of claim elements, the level of experimentation, and/or obviousness in the Office Action of January 9, 2007. Further, the Examiner's assertions are contrary to the factual evidence of record, for example, as recited in the Declarations of Rubin and Hollaar. Consequently, the Applicant hereby challenges these assertions by the Examiner as not properly based on common knowledge. Consequently, under MPEP 2144.03(C), the Examiner is now required to support his factual contentions with evidence, such as an Affidavit or Declaration, or drop his contentions.

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Application No. 09/385,802  
Attorney Docket No. 4031/1, 15719US00


**CONCLUSION**

If the Examiner has any questions or the Applicant can be of any assistance, the Examiner is invited and encouraged to contact the Applicant at the number below.

The Commissioner is authorized to charge any necessary fees or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Account No. 13-0017.

Respectfully submitted,

Date: August 16, 2007

  
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Joseph M. Barich  
Registration No. 42,291

MCANDREWS, HELD & MALLOY, LTD.  
500 West Madison Street, 34th Floor  
Chicago, IL 60661

Telephone: (312) 775-8000  
Facsimile: (312) 775-8100